



Nantucket Planning Board

**The Planning Board meeting will be audio and video recorded*

Board Members: David Iverson (Chair), Joseph Topham (Vice-Chair), Nat Lowell, and Barry Rector

Alternates: Stephen Welch, Abby De Molina and John Kitchener

Staff: Leslie Snell (Director of Planning), Meg Trudel (Senior Planner), William Saad (Land Use Specialist), and Catherine Ancero (Administrative Specialist)

PLANNING BOARD APPROVED MINUTES

05-06-2024 @ 1:00 PM

(Subject to change)

Please list below the topics the chair reasonably anticipates will be discussed at the meeting.

*The complete text, plans, application, or other material relative to each agenda item are available for inspection digitally. Email requests may be sent to wsaad@nantucket-ma.gov *

**Participation in Public Hearings and Public Comment will be available through Zoom, use link above to participate. A video recording of the meeting will be uploaded to the Town's YouTube page at a later date.*

I. Call to order:

Chair Iverson called the meeting to order at 1:00pm.

Chair Iverson read a prepared statement in accordance with Governor Baker's March 21, 2020, order regarding open meeting law, which outlines how the meeting is conducted via remote participation and states the ground rules for any discussion.

Roll Call of those participating:

Vote taken by Roll Call:

Barry Rector *Aye*

Nat Lowell *Aye*

Vice-Chair Topham *Aye*

Chair Iverson *Aye*

Alternates:

Abby De Molina *Aye*

John Kitchner *Aye*

Stephen Welch *Absent*

Staff:

Megan Trudel *Aye*

Leslie Snell *Aye*

Catherine Ancero *Aye*

Billy Saad *Aye*

II. Approval of the agenda:

Motion/Vote: Mr. Lowell moved to approve the agenda. The motion was duly seconded by Vice-Chair Topham and was carried unanimously with a vote of 4-0.

Vote taken by Roll Call:

Nat Lowell *Aye*

Vice-Chair Topham *Aye*

Barry Rector *Aye*

Chair Iverson *Aye*

III. Public Hearing:

Zoning Article Proposed by Citizen Petition: Re-advertisement to reopen the public hearings for re-consideration of motion.

- **(Re-Advertisement) Zoning Bylaw Amendment: Definitions and Word Usage/Residential Rental Use (Cohen): Article 59:** To amend Section 139-2 “Definitions” to revise or insert “Commercial”, “Corporations”, “Long Term Rental”, and “Short Term Rental”; to amend Section 139-7A “Use Chart” to insert “Short Term Rental” and “Long Term Rental” with a designation of “Y” in all districts except Commercial Industrial (CI); and to amend Section 139-7B to insert language that states no person or entity shall engage in the activity of Short Term Renting unless that activity is in strict compliance with all present and future regulations contained in Chapter 123 of the Town Code. *Re-advertisement to re-open the public hearing for re-consideration of motion for Article 59.*

Voting: (Chair) David Iverson, (Vice-Chair) Joseph Topham Nat Lowell, , and Barry Rector

Alternates: Abby De Molina and John Kitchener

Recused: None

Documentation: File with associated plans, photos and required documentation

Activated: None

Representing: Attorney Steven Cohen

Discussion: The Planning Board had motioned to approve Zoning Article 59, but later after discussion involving other related articles (Articles 60, 61 and 62) the sponsor agreed to table Article 59. Later in the same day a court decision was released (Ward versus Grape case) that altered the factual context, prompting the sponsor to request reverting to the motion to approve Article 59. Article 59 aimed to clarify that rental of residential properties, including short-term rentals (STRs), is not considered a commercial activity. It also introduced definitions of long-term rentals, responding to the court decision’s requirement for explicit provisions of STRs in the zoning code. It mandated compliance and registration with the Board of Health for STR operators effective from 2025. It was clarified that Article 59 does not include specific rules for regulating STRs. Instead, Article 59 focuses on incorporating STRs into the zoning code while leaving regulatory details to be addressed separately through the bylaw. The rationale behind this approach was to utilize the bylaw’s easier amendment process for regulation changes, as opposed to the more complex zoning code amendments. Questions were raised regarding the definition of commercial STRs, indicating the uncertainty surrounding the term. Attorney Cohen acknowledged the uncertainty and suggested that further definition could be addressed by providing clear guidelines for operators. Chair Iverson opened the floor to the public. Leslie Forbes asked about potential regulations for short-term rentals (STRs) through general bylaws, such as limits on the number of rentals or rental duration. Attorney Cohen clarified that such regulations could indeed be implemented through general bylaws and would apply universally to all STR operators without creating different classes of renters. Attorney Cohen also referenced state law provisions granting municipalities the authority to regulate STRs. Shelly Lockwood clarified the Board’s previous position of recommending no action on Article 59 due to ongoing discussions with the proponents of related articles and the absence of a court decision at that time. Following the court decision and a request from the article’s sponsor, the Board’s position changed to supporting Article 59. Attorney Cohen clarified that the Town Council had affirmed the authority to enact regulations through general bylaws, confirming no grandfathering provisions and

providing opportunities for citizen-driven regulation proposals. Diane Coombs raised a question about how to track the number of short-term rentals (STRs) in the area, particularly regarding corporate-owned properties. Attorney Cohen explained that with the new registration process, property owners would need to disclose the ownership structure, allowing the town to differentiate between corporate-owned and privately-owned properties. Charity Benz inquired about the submission of general bylaws and expressed concern about the impartial evaluation of citizen-driven articles. Chair Iverson assured that the Planning Board would approach any citizen's article in an unbiased manner and evaluate it thoroughly. During the discussion a member of the public extended birthday wishes to Attorney Steven Cohen, who shared that he recently celebrated being three years cancer-free. Vice-Chair Topham mentioned that Attorney Cohen shares a birthday with his daughter. BJ Henderson residing on Silver Street raised concerns about the implications for homeowners with short-term rental leases if Zoning Article 59 doesn't pass. Attorney Cohen explained that without Article 59, short-term rentals wouldn't be allowed under the zoning code leading to legal uncertainties. Attorney Cohen stated that the judge's decision left the issue of short-term rentals as an ancillary use to be determined by the Zoning Board, however this process could lead to more litigation. Frank Daley expressed concerns about the lack of clear definitions for terms like "accessory use" and "primary use" and how it is affecting community understanding and decision-making. Attorney Cohen clarified that these terms aren't defined, the need for clearer regulations to be established by the Zoning Board or at Town Meeting.

Motion/Vote: Mr. Lowell moved to close the public hearing. The motion was duly seconded by Vice-Chair Topham, and the motion was carried unanimously and voted 4-0.

Vote taken by Roll Call:

Nat Lowell *Aye*
Vice-Chair Topham *Aye*
Barry Rector *Aye*
Chair Iverson *Aye*

Motion/Vote: Mr. Rector moved to approve the article as revise a previous motion from table to positive recommendation. The clarification was made that the positive recommendation was with the article as amended by the proponent. The motion was duly seconded by Vice-Chair Topham, and the motion was carried out with a vote of 3-1 with Chair Iverson opposed due to concerns about community regulations.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice-Chair Topham *Aye*
Nat Lowell *Aye*
Chair Iverson *Nay*

XIV. Adjournment:

Mr. Rector moved to adjourn the meeting at 1:48PM. The motion was duly seconded by Vice-Chair Topham, and the motion was carried unanimously with a vote of 4-0.

Vote taken by Roll Call:

Barry Rector *Aye*
Vice-Chair Joseph Topham *Aye*
Nat Lowell *Aye*
Chair Dave Iverson *Aye*

Submitted by Catherine Ancero

***Link to the Planning Board packet:**

<https://nantucket-ma.gov/AgendaCenter/ViewFile/Agenda/05062024-13765>